

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

| | | |
|--|---|---|
| STANLEY HERBERT | : | CASE NO. C-1-00-855 |
| | : | |
| Plaintiff, | : | Magistrate Judge Hogan |
| | : | |
| vs. | : | |
| | : | |
| MILFORD TOWING & SERVICE, INC., | : | <u>MOTION FOR ORDER FOR UNITED</u> |
| et. al, | : | <u>STATES MARSHAL TO SERVE</u> |
| | : | <u>SUBPOENA ON WILLIAN GARNER</u> |
| Defendants. | : | |

Pursuant to FCRP Rule 4(c)(2), plaintiff moves for an order to have the United States Marshal serve a summons on William Garner to testify in the trial in this action on October 27, 2003.

Plaintiff employed Legal Ease of Ohio, LLC to serve a subpoena on William Garner to testify on behalf of plaintiff in the trial scheduled to begin on October 27, 2003. Mr. Garner refused to be served by Legal Ease.

On October 14, 2003, Becky Williams, process server, spoke to Garner on the telephone; he stated he did not want to accept the Subpoena. On October 15, 2003, at 6:10 p.m., Ms. Williams attempted service at address provided on Subpoena but no contact was made. She waited in the area and again attempted to serve the subpoena at 6:40 p.m. Ms. Williams spoke to Mr. Garner's wife stated she didn't know when he would be home.

On October 16, 2003, Ms Williams arrived at Mr. Garner's home at 7:00 p.m. All the lights were on and two vehicles were parked in the driveway. As Ms. Williams approached the door, the lights were turned off and occupants refused to answer the door. Ms. Williams left a telephone message on Mr. Garner's home phone stating that it was clear they were home but not

answering the door. She advised Mr. Garner his subpoena would be attached to the front door. She continued knocking until 7:25 p.m. without making contact. The subpoena was posted on Mr. Garner's front door at 7:25 p.m. on October 16, 2003. A copy of an email describing Legal Ease's attempts to obtain service, a copy of the Return of Service signed by Becky Williams and a copy of the subpoena are attached.

CONCLUSION

An order should issue authorizing the United States Marshal to serve subpoena on William Garner.

Respectfully submitted,

s/Robert F. Laufman
Robert F. Laufman (0019699)
Jennifer Branch (0038893)
Trial Attorney for Plaintiff
Laufman & Gerhardstein
1409 Enquirer Building
617 Vine Street
Cincinnati, Ohio 45202
(513) 621-9100
Fax: (513) 345-5543

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of October, 2003, a copy of the foregoing Plaintiff's Motion for order for United States Marshal to serve William Garner was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of this Court's electronic filing system. Parties may access this filing through the Court's system. I further certify that a copy of the foregoing has been served by ordinary U.S. Mail upon all parties for whom counsel has not yet entered an appearance.

s/Robert F. Laufman
Robert F. Laufman, #0019699
Laufman & Gerhardstein
1409 Enquirer Building
617 Vine Street
Cincinnati, Ohio 45202
(513) 621-9100
FAX (513) 345-5543

From: Paulapi5@aol.com

Sent: Friday, October 17, 2003 9:51 AM

To: Robert Laufman

Subject: Serice of Process William Garner

Dear Mr. Laufman,

RE: Stanley Herbert V. Milford Towing & Service Inc.

Service of Process-William Garner- Case No: C-1-00-855

The following is a summary of what took place when attempting to Personally Serve Subpoena to Mr. William Garner:

1. Spoke to subject on the telephone, he stated he would not cooperate and accept Subpoena.
10/14/03 6:45PM
2. Attempted service at address provided on Subpoena. No contact made. 10/15/03 6:10PM
3. Waited in area-Attempted again 10/15/03 at 6:40PM-Spoke to subject's wife. Explained nature of my delivery to Mr. Garner's wife. She refused to provide information leading to subject's whereabouts.
4. Arrived at Mr. Garner's House 10/16/03 7:00PM. All the lights were on and 2 Vehicles parked in Driveway (Green Pontiac Bonneville BV83GZ and RAV4 Toyota-Black Temp. Tag. E888545 Expires 1018-03) As server approached door, the lights were turned off, and occupants refused to answer door. A telephone message was left on the Garner's home phone stating it was clear they were home but not answering the door. I advised Mr. Garner his Subpoena would be attached to the front door and his lack of cooperation would be noted on my return of service. Continued knocking until 7:25pm- no contact made with occupants. Subpoena posted on Front door 10/16/03 7:25PM.

RETURN OF SERVICE

ORIGINAL

**UNITED STATES DISTRICT COURT
Southern District of Ohio**

Case Number: C-1-00-855

Plaintiff:

Stanley Herbert

vs.

Defendant:

Milford Towing & Service, Inc., et al.

For:

Robert Laufman

LAUFMAN & GERHARDSTEIN

617 Vine Street

Suite 1409

Cincinnati, OH 45202

Received by LEGAL EASE OF OHIO LLC on the 13th day of October, 2003 at 10:27 am to be served on **WILLIAM GARNER, 1368 Finch Lane, Mt. Repose, OH 45150.**

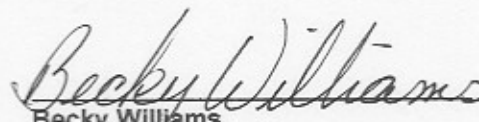
I, Becky Williams, do hereby affirm that on the **16th day of October, 2003 at 7:25 pm, I:**

Delivered the Subpoena in a Civil Case, Attachment, Witness Fee to the within named address.

Additional Information pertaining to this Service:

Spoke to Mr. Garner 10/14/03 6:45pm on the telephone. He stated he does not want to accept Subpoena. Attempted Service on 10/15/03 6:10pm, No Contact Made. Attempted Service 10/15/03 6:40Pm Spoke to Subject's Wife-She stated she didn't know when he would be home. 10/16/03 arrived at Subject's address-lights were on-by the time I approached the door, the lights were turned off and occupants refused to answer door. Left voicemail for subject stating Subpoena would be posted on front door. Posted Subpoena

I am over the age of 18 and have no interest in the above action.


Becky Williams
Process Server

LEGAL EASE OF OHIO LLC

407 Vine Street

Suite 102

Cincinnati, OH 45202

(513) 621-1017

Our Job Serial Number: 2003001596

• AO88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT

Southern

DISTRICT OF

Ohio

Stanley Herbert
Plaintiff

SUBPOENA IN A CIVIL CASE

V.

Milford Towing & Service, Inc., et al.
Defendants

Case Number:¹ C-1-00-855

TO: Mr. William Garner
1368 Finch Lane
Mount Repose, OH 45150

☒ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

United States District Court
Potter Stewart U.S. Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202

COURTROOM

Judge Hogan, Room 708

DATE AND TIME

October 27, 2003 at 9:30 am

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects place, date, and time specified below (list documents or objects):

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

Robert F. Laufman
Robert F. Laufman Attorney for Plaintiff

10-10-03

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

1409 Enquirer Building, 617 Vine Street
Cincinnati, Ohio 45202

Phone (513) 621-9100

¹ If action is pending in district other than district of issuance, state district under case number